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PROGRAM Point to Point

STATION WJLA-TV

DATE December 7, 1985 7:00 P.M. CITY Washington, D.C.

SUBJECT Meyer and Halperin

DAVID SCHOUmacher: There's nothing new about betraying our country. Benedict Arnold, after all, was only the first. He sold out his soldiers for 20,000 pounds, the equivalent of about a million dollars in today's economy.

So, what struck us most about all the recent spy cases is not that there've been so many, but that the price of treason has not kept up with inflation. Jonathan Pollard, a Navy intelligence analyst, allegedly sold out to Israel for \$50,000. Ronald Pelton is said to have become a spy for the Soviet Union for just \$25,000.

Still, although the pay isn't all that good, money, not politics, or even love, has become the motive for this generation's traitors.

To consider what can be done about it, we're joined in our Washington studios by Cord Meyer, who was an official of the Central Intelligence Agency from 1967 to 1977, once a station chief in London, and Assistant Deputy Director. Mr. Meyer is now a syndicated columnist and teaches at Georgetown University School of Foreign Service.

Also with us is Morton Halperin, Director of the Washington Office of the American Civil Liberties Union and a former member of the National Security Council.

Mr. Meyer, on this program Arkady Shevcheko, the U.N. diplomat, said that although he had sold out his own country, the Soviet Union, that he thought that traitors should be hanged. Is that what your view?

CORD MEYER: I think I'm inclined to agree with Senator Roth of Delaware, who has just introduced a bill in the Senate which would call for an optional death penalty. It would give the judge in the case the right, in the event of major crimes, to optionally choose to apply the death penalty. The advantage obviously being that it would be a deterrent, and it also would be a bargaining chip in the negotiations that led to a final decision.

In the absence of that possible penalty, the deterrent effects of the other sentences that are available are not, to my mind, sufficient.

SCHOUMACHER: Mr. Halperin, would that work as a deterrent, do you think, the death penalty?

MORTON HALPERIN: I think it might contribute to deterrent. But in my view, the death penalty is cruel and unusual punishment, is unconstitutional, and should not be applied.

Moreover, attempting to use the death penalty here will introduce an enormous amount of needless controversy into what I think otherwise could be an agreement about what to do to reduce the amount of spying that there is.

I think life sentences are sufficiently deterring. I do not believe that people become spies because they think they will only get life imprisonment, as they have gotten, rather than the death penalty. I think they become spies because they think they're not going to get caught, and with good reason, because the system has simply been very poorly designed to catch spies. And it's only recently, and mostly because of luck, that we've begun to catch some of these spies.

SCHOUMACHER: You know, there are several different kinds of people you talk about here when you talk about spies. First of all, there are enemy agents. Then there are Americans who have turned traitor. And then, finally, there is the third category, which we saw in the Morison case, and earlier in the Pentagon Papers -- that is, essentially whistle-blowers who don't approve of a certain government policy, and go to the press.

Should somebody like Morison face the death penalty?

HALPERIN: I don't think he should have faced any penalty at all. I don't believe that it should be a crime to give information to the press.

Moreover, if we confuse the two things, again we get involved in controversy about the public's right to know, and

distract our attention from what is the critical problem, --namely, the fact that people are selling or giving secret information to our enemies and causing great harm to the security of the country. That's the real problem, not the publication in a magazine of a photograph which did not cause any harm, which is what Morison was accused of doing.

SCHOUMACHER: What about the view from inside the agency? Would they want to see reporters, as well as their sources, prosecuted, do you think, Mr. Meyer?

MEYER: Well, I think that Morton is completely correct. Nobody's dreaming of a death penalty for the kind of infraction that Morison was guilty of. Senator Roth makes clear in his proposal it would only apply in the case of very major espionage infractions.

SCHOUMACHER: Well...

MEYER: That is really beside the point, that whole argument.

But I do think that the Morison case is a serious problem because he really leaked information to Jane's, that publication, that almanac in Britain, on the basis of information that had been given to him and that was in his safekeeping. He made it public in order to get a job with Jane's magazine.

HALPERIN: The government ought to have the right to fire somebody in that situation. But I think when you start using criminal penalties to deal with that rather than real spying, you chill public debate because the penalty could apply to the reporters as well, and you interfere with the public right to know.

So I think that's a totally separate issue that ought to be kept separate.

MEYER: It's not entirely separate. Because if you go back and look at what President Harry Truman said in 1951, he said that the difference between --a damaging leak that let's very vital information out and available to our opponents is no different from what was...

HALPERIN: But I think that was...

MEYER: ...an effective espionage...

HALPERIN: Even Harry Truman sometimes made a mistake.

MEYER: Well, I don't know. Harry had a lot of common sense about him.

HALPERIN: He certainly did.

But I think we ought to focus on what the real issue is, which is that spies no longer spy for ideology, but our investigations still focus on political beliefs rather than economic motives. We don't ask people if they've gone bankrupt. We don't reclear people every few years. And it's now clear that people become spies after they join the government rather than before. And we do not even ask people, for example, whether they make trips to Vienna.

There are a great many things that can be done to deter spies by increasing the probability that they'll be caught, without getting into controversial...

SCHOUMACHER: Are we looking at so many people that we really can't see any of the real threats, do you think, Mr. Meyer? Are too many things classified, too many people have classification clearances?

MEYER: Certainly you're right. Many too many people have received top secret clearance, many too many papers classified top secret. And our whole problem could be shrunk in size drastically, and there are moves afoot to do it.

But I'd like to go on one step further on this question of what we can do about it, because we have in the last few years done some effective things that have improved our ability to catch spies. For example, we have a new act, passed in 1978, the Foreign Intelligence Surveillance Act, which permits for the first time the FBI to go to a panel of federal judges and to get their permission to run telephone taps

If you look at these cases, telephone taps played a very important role in their eventual resolution.

And there is the act that was passed in 1980 which refers to clandestine information procedures.

HALPERIN: And the ACLU supported both of those pieces of legislation.

MEYER: Well, I'm glad to hear it, Morton. I'm glad to see you coming around.

HALPERIN: What it illustrates is that there are a great many things that can be done that are consistent with people's civil liberties and which will enable us to more effectively catch spies. But the death penalty...

SCHOUMACHER: Cord and Morton Halperin, on that point I have to thank you both for joining us today on Point to Point.